

York, Marylisa

From: Burke, Ruth A
Sent: Tuesday, October 19, 2021 2:57 PM
To: Beyer, Jim R
Subject: FW: Testimony for Oct. 19 CMP hearing
Attachments: NECEC testimony2.docx

Ruth Ann Burke
Maine Department of Environmental Protection
Board of Environmental Protection
Commissioner's Office

From: Cathy Johnson <cjohnson@tidewater.net>
Sent: Tuesday, October 19, 2021 2:53 PM
To: DEP, NECEC <NECEC.DEP@maine.gov>; Burke, Ruth A <Ruth.A.Burke@maine.gov>
Subject: Testimony for Oct. 19 CMP hearing

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Attached please find my written testimony for the CMP hearing.

Catherrine B. Johnson
207-462-2164

Testimony of Catherine B. Johnson

My name is Cathy Johnson. I live in Alna. Between 1990 and 2020, I worked for the Natural Resources Council of Maine as the Forests and Wildlife Director. A major part of my responsibilities was following policies, legislation and activities related to our Public Reserved Lands.

In 1993, I worked, with many others, to help pass a constitutional amendment that eventually became Section 23 of the Maine Constitution. The purpose of this amendment was to protect our public reserved lands by requiring broad public support – 2/3rds of the Maine Legislature – for any activity that would substantially alter our public lands. Its purpose was, in fact, to avoid precisely what happened with CMP – where the state executed a lease allowing the destruction of the forest, wildlife habitat, and remote recreation opportunities on our public lands without any notice to the public or the Legislature whatsoever.

The Superior Court has unequivocally found that the Bureau of Parks and Lands did not comply with the constitutional requirement of determining whether the lease would substantially alter the public lands. Therefore the lease is not valid.

One of the requirements any developer has to comply with is to show that they have the legal right, title or interest in the property they wish to develop. The court's decision invalidating the lease means that CMP does not have the legal right, title, or interest it must have to complete the NECEC corridor. When DEP previously granted a permit to CMP, it believed that CMP had a valid lease on our public lands. Because the Superior Court has determined that CMP does not have a valid lease and the required right, title, and interest, DEP should suspend the permit.

The public lands in question are in the middle of the undeveloped section of the corridor. CMP has in past repeatedly argued that there is no practical alternative route. Without the ability to cross our public lands, CMP has no practical route for its corridor. CMP should not be allowed to continue to clearcut and construct a corridor on lands north and south of the public lands until such time as it can show that it has a legal right, title and interest on lands needed to connect the two parts of the corridor – and until that alternative corridor has been evaluated for its environmental impacts.

To allow CMP to continue to clearcut and construct portions of the corridor north and south of the public lands which may never be connected would allow senseless destruction of the forest, wildlife habitat, and the recreational opportunities the undeveloped forestlands currently provide. Allowing CMP to continue to develop its project as if it had a valid legal interest when it does not would make a mockery of the environmental review process. If a developer came to DEP with a new application that lacked legal right, title and interest to a crucial part of the project, DEP would never approve it. Why should it be any different for CMP now?

I am aware that the Superior Court decision invalidating the lease is on appeal. However, given the clarity of the constitutional provision, I am confident the Law Court will uphold the Superior Court's decision.

But even if you do not share that confidence, CMP should not be allowed to render the constitutional requirement of public notice and approval meaningless by going ahead and destroying the forest by building portions of the project which may never be used.

I strongly urge you to suspend the permit for any and all activities in Segment 1 of the NECEC project.

Submitted by:

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